

an air conveyance for transportation of persons which begins after November 15, 1962, such as for parking, icing, sanitation, "layover" or "waiting time", movement of equipment in deadhead service, dockage, or wharfage, etc.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11223, Nov. 14, 1962]

§ 49.4261-9 Seats and berths; rate and application of tax.

(a) *Imposition of tax.* Section 4261 (c) imposes a tax at a prescribed rate upon payments of any amounts for seating or sleeping accommodations in connection with transportation with respect to which a tax is imposed by section 4261 (a) or (b).

(b) *Rate of tax.* The tax is imposed under section 4261(c) upon the amount paid for seating or sleeping accommodations at the following rates:

(1) 10 percent with respect to amounts paid in connection with taxable transportation by rail, motor vehicle, water, or air which begins before November 16, 1962.

(2) 5 percent with respect to amounts paid in connection with the air portion of any transportation which begins after November 15, 1962.

(c) *Application of other rules to seats and berths.* The rules and provisions of §§ 49.4261-1 to 49.4261-6, inclusive, with respect to the tax on payments for transportation imposed by section 4261 (a) or (b) are also applicable to the tax on payments for seating or sleeping accommodations.

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§ 49.4261-10 By whom paid.

The tax imposed by section 4261 is payable by the person making the taxable payment for transportation or for seats, berths, etc., and is collectable by the person receiving such payments. See section 4264 (a) and (c) for special rules relating to payment and collection of tax.

§ 49.4262(a)-1 Taxable transportation.

(a) *In general.* Unless excluded under section 4262(b) (see § 49.4262(b)-1), taxable transportation means:

(1) Transportation which begins in the United States or in that portion of Canada or Mexico which is not more than 225 miles from the nearest point in the continental United States (the "225-mile zone") and ends in the United States or in the 225-mile zone; and

(2) In the case of any other transportation, that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States, but, with respect to transportation which begins after November 15, 1962, only if such portion is not part of "uninterrupted international air transportation" within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. Transportation from one port or station in the United States to another port or station in the United States occurs whenever a carrier, after leaving any port or station in the United States, makes a regularly scheduled stop at another port or station in the United States irrespective of whether stopovers are permitted or whether passengers disembark.

The provisions of this paragraph are applicable whether the transportation is by rail, motor vehicle, water, or air, or any combination thereof, except that with respect to transportation which begins after November 15, 1962, the tax, if applicable, applies only to the amount paid for that portion of the transportation which is by air.

(b) *Illustrations of taxable transportation under section 4262(a) (1).* In each of the following examples the transportation is taxable transportation and the amount paid within the United States for such transportation is subject to the tax:

- (1) New York to Seattle;
- (2) New York to Vancouver, Canada, with a stop at Jasper, Canada;
- (3) Chicago to Monterrey, Mexico;
- (4) Montreal, Canada, to Toronto, Canada; and
- (5) Miami to Los Angeles via Panama. If in the examples in subparagraphs (1) and (5) of this paragraph, payment for the transportation had been made outside the United States, such payment would nevertheless have been subject to tax since in each case

the transportation begins and ends in the United States.

(c) *Illustrations of taxable transportation under section 4262(a) (2) beginning before November 16, 1962.* The following examples will illustrate the application of section 4262(a) (2) with respect to transportation beginning before November 16, 1962:

Example (1). A purchases in New York a round-trip ticket for transportation by air from New York to Havana, Cuba, with a stop at Miami. The amount paid for that part of the transportation between New York and Miami on both going and return trips is subject to tax, since such transportation is from one station in the United States to another station in the United States.

Example (2). B purchases a ticket in San Francisco for combination rail and water transportation from San Francisco to New York to Halifax, Canada, to London, England. The amount paid for that part of the transportation between San Francisco and New York is subject to tax, since such transportation is from one station in the United States to another station in the United States. Although Halifax is in the 225-mile zone, the transportation between New York and Halifax is not taxable because it is not transportation from one port in the United States to another port in the United States.

Example (3). C purchases a ticket in Seattle for transportation from Seattle to Lisbon, Portugal, with stops at Vancouver, Edmonton, and Montreal, Canada, and New York. The amount paid for that part of the transportation from Seattle to New York is subject to tax, since it is indirectly from one station in the United States to another station in the United States.

Example (4). E purchases in Chicago a ticket for transportation by air from Chicago to New York to Gander, Newfoundland, to London, England. Only the amount paid for that part of the transportation between Chicago and New York is subject to tax. If, while on the New York-Gander leg of the journey the aircraft is forced to land at Boston, because of weather or other emergency, no tax is imposed by reason of such emergency stop.

Example (5). G charts a plane in New York for transportation to Bogota, Colombia, and pays the charter charges in New York. The plane stops at an airport in Miami for refueling in accordance with its flight plan. The tax attaches with respect to that part of the transportation which is between New York and Miami.

(d) *Illustrations of taxable transportation under section 4262(a) (2) beginning after November 15, 1962.* The following examples will illustrate the application of section 4262(a) (2) with respect to

transportation beginning after November 15, 1962:

Example (1). A purchases in New York a round-trip ticket for transportation by air from New York to Nassau with a scheduled stopover of 10 hours in Miami on both the going and return trip. The amount paid for that part of the transportation from New York to Miami on the going trip is subject to tax, since such transportation is from one station in the United States to another station in the United States and the trip is not uninterrupted international air transportation because the scheduled stopover interval in Miami is greater than six hours. The amount paid for the return trip from Miami to New York is subject to tax for the same reason.

Example (2). A purchases a ticket in San Francisco for transportation to London with a stopover in New York. He is to travel by air from San Francisco to New York and from New York to London by water. He is scheduled to stopover in New York for 4 hours. That portion of the total amount paid by A for his transportation applicable to the air transportation between San Francisco and New York is subject to tax since such transportation is from one station in the United States to another station in the United States, and is not a part of uninterrupted international air transportation since the complete trip from San Francisco to London is not entirely by air.

Example (3). A purchases a through ticket for air transportation from San Francisco to London with stopovers at Denver, Chicago, Philadelphia, and New York. At each stopover the air carrier has scheduled his arrival and departure within 6 hours. After arriving in Philadelphia, A, for his own convenience, decides to stopover for more than 6 hours. The total amount paid by A for his transportation from San Francisco to New York is subject to tax since the scheduled interval between the beginning or end and the end or beginning of any two segments of the domestic portion of international air transportation exceeded 6 hours. If the stopover interval in Philadelphia is extended for more than 6 hours by the carrier solely for its own convenience such as making repairs to the aircraft, the domestic portion of A's trip will not become taxable, provided A continues his international air transportation no later than on the first available flight offered by the carrier.

Example (4). A purchases a through ticket for transportation by air from Los Angeles to Barbados with stopovers at Houston, Mexico City, Mexico, and Miami. At each stopover, except Mexico City, A's scheduled time of arrival and departure is within six hours. At Mexico City, A's scheduled time of arrival and departure exceeds six hours. The total amount paid by A for his transportation

from Los Angeles to Miami, including that part of the transportation to and from Mexico City, is subject to tax since the transportation includes a portion which is indirectly from one port or station in the United States to another port or station in the United States (Houston to Miami via Mexico City) and the scheduled interval in Mexico City between two segments of such portion exceeds six hours. If A's scheduled arrival and departure at each stopover of his transportation which is directly or indirectly between ports or stations in the United States, including that at Mexico City, had been within a six hour interval and A had arrived and departed at each such stopover within that period, the transportation would have qualified as uninterrupted international air transportation and no part of the amount paid for the transportation by air from Los Angeles to Barbados would be subject to tax.

(e) *Illustrations of transportation which is not taxable transportation.* The following examples will illustrate transportation which is not taxable transportation:

- (1) New York to Trinidad with no intervening stops;
- (2) Minneapolis to Edmonton, Canada, with a stop at Winnipeg, Canada;
- (3) Los Angeles to Mexico City, Mexico, with stops at Tia Juana and Guadalajara, Mexico;
- (4) New York to Whitehorse, Yukon Territory, Canada, after November 15, 1962, by air with a scheduled stopover in Chicago of five hours.

Amounts paid for the transportation referred to in examples set forth in subparagraphs (1), (2), and (3) of this paragraph are not subject to the tax regardless of where payment is made, since none of the trips (i) begin in the United States or in the 225-mile zone and end in the United States or in the 225-mile zone, nor (ii) contain a portion of transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States. The amount paid within the United States for the transportation referred to in the example set forth in subparagraph (4) of this paragraph is not subject to tax since the entire trip (including the domestic portion thereof) is "uninterrupted international air transportation" within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. In the event the transportation is paid for outside the United

States, no tax is due since the transportation does not begin and end in the United States.

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§ 49.4262(b)-1 Exclusion of certain travel.

(a) *In general.* Under section 4262(b) taxable transportation does not include that portion of any transportation which meets all four of the following requirements:

(1) Such portion is outside the United States;

(2) Neither such portion nor any segment thereof is directly or indirectly:

(i) Between (a) a point where the route of the transportation leaves or enters the continental United States, or (b) a port or station in the 225-mile zone, and

(ii) A port or station in the 225-mile zone;

(3) Such portion:

(i) Begins at either (a) the point where the route of the transportation leaves the United States, or (b) a port or station in the 225-mile zone, and

(ii) Ends at either (a) the point where the route of the transportation enters the United States, or (b) a port or station in the 225-mile zone; and

(4) A direct line from the point (or the port or station) specified in subparagraph (3) (i) of this paragraph, to the point (or the port or station) specified in subparagraph (3) (ii) of this paragraph, passes through or over a point which is not within 225 miles of the United States. For purposes of this section, the route of the transportation shall be deemed to leave or enter the United States when it passes over (i) the international boundary line between any part of the United States and a contiguous foreign country, or (ii) a point three nautical miles (3.45 statute miles) from low tide on the coast line.

(b) *Transportation to or from Alaska or Hawaii.* (1) Under the provisions of section 4262(b) transportation between the continental United States or the 225-mile zone and Alaska or Hawaii will be partially exempt from the tax. The portion of such transportation which (i) is outside the United States, (ii) is not